



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1979

Introduced 2/26/2007, by Rep. Ruth Munson

SYNOPSIS AS INTRODUCED:

See Index

Amends the Criminal Code of 1961. Eliminates from the child abduction statute a provision that a person commits child abduction when he or she intentionally lures or attempts to lure a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place without the consent of the parent or lawful custodian of the child for other than a lawful purpose. Creates the offense of luring a minor. Provides that a person commits the offense when he or she is 18 years of age or older and is a stranger to a person under 15 years of age and knowingly contacts or communicates electronically to the person who is under 15 years of age, for the purpose of persuading and luring or transporting or attempting to persuade and lure, or transport, that person under 15 years of age away from the person's home, or from any location known by the person's parent, legal guardian, or custodian, to be the place where the person under 15 years of age is located, for any purpose without the express consent of the person's parent or legal guardian, and with the intent to avoid the consent of the person's parent or legal guardian. Establishes penalties. Amends the Unified Code of Corrections to provide that a person convicted of a second or subsequent offense of luring a minor shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment. Amends the Sex Offender Registration Act. Provides that a person convicted of a second or subsequent offense of luring a minor shall register as a sexual predator.

LRB095 09506 RLC 29704 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Section 10-5 and by adding Section 10-5.1 as follows:

6 (720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

7 Sec. 10-5. Child Abduction.

8 (a) For purposes of this Section, the following terms shall
9 have the following meanings:

10 (1) "Child" means a person under the age of 18 or a
11 severely or profoundly mentally retarded person at the time
12 the alleged violation occurred; and

13 (2) "Detains" means taking or retaining physical
14 custody of a child, whether or not the child resists or
15 objects; and

16 (3) "Lawful custodian" means a person or persons
17 granted legal custody of a child or entitled to physical
18 possession of a child pursuant to a court order. It is
19 presumed that, when the parties have never been married to
20 each other, the mother has legal custody of the child
21 unless a valid court order states otherwise. If an
22 adjudication of paternity has been completed and the father
23 has been assigned support obligations or visitation

1 rights, such a paternity order should, for the purposes of
2 this Section be considered a valid court order granting
3 custody to the mother.

4 (b) A person commits child abduction when he or she:

5 (1) Intentionally violates any terms of a valid court
6 order granting sole or joint custody, care or possession to
7 another, by concealing or detaining the child or removing
8 the child from the jurisdiction of the court; or

9 (2) Intentionally violates a court order prohibiting
10 the person from concealing or detaining the child or
11 removing the child from the jurisdiction of the court; or

12 (3) Intentionally conceals, detains or removes the
13 child without the consent of the mother or lawful custodian
14 of the child if the person is a putative father and either:

15 (A) the paternity of the child has not been legally
16 established or (B) the paternity of the child has been
17 legally established but no orders relating to custody have
18 been entered. However, notwithstanding the presumption
19 created by paragraph (3) of subsection (a), a mother
20 commits child abduction when she intentionally conceals or
21 removes a child, whom she has abandoned or relinquished
22 custody of, from an unadjudicated father who has provided
23 sole ongoing care and custody of the child in her absence;
24 or

25 (4) Intentionally conceals or removes the child from a
26 parent after filing a petition or being served with process

1 in an action affecting marriage or paternity but prior to
2 the issuance of a temporary or final order determining
3 custody; or

4 (5) At the expiration of visitation rights outside the
5 State, intentionally fails or refuses to return or impedes
6 the return of the child to the lawful custodian in
7 Illinois; or

8 (6) Being a parent of the child, and where the parents
9 of such child are or have been married and there has been
10 no court order of custody, conceals the child for 15 days,
11 and fails to make reasonable attempts within the 15 day
12 period to notify the other parent as to the specific
13 whereabouts of the child, including a means by which to
14 contact such child, or to arrange reasonable visitation or
15 contact with the child. It is not a violation of this
16 Section for a person fleeing domestic violence to take the
17 child with him or her to housing provided by a domestic
18 violence program; or

19 (7) Being a parent of the child, and where the parents
20 of the child are or have been married and there has been no
21 court order of custody, conceals, detains, or removes the
22 child with physical force or threat of physical force; or

23 (8) Conceals, detains, or removes the child for payment
24 or promise of payment at the instruction of a person who
25 has no legal right to custody; or

26 (9) Retains in this State for 30 days a child removed

1 from another state without the consent of the lawful
2 custodian or in violation of a valid court order of
3 custody; or

4 (10) (Blank) ~~Intentionally lures or attempts to lure a~~
5 ~~child under the age of 16 into a motor vehicle, building,~~
6 ~~housetrailer, or dwelling place without the consent of the~~
7 ~~parent or lawful custodian of the child for other than a~~
8 ~~lawful purpose.~~

9 ~~For the purposes of this subsection (b), paragraph (10),~~
10 ~~the luring or attempted luring of a child under the age of 16~~
11 ~~into a motor vehicle, building, housetrailer, or dwelling place~~
12 ~~without the consent of the parent or lawful custodian of the~~
13 ~~child shall be prima facie evidence of other than a lawful~~
14 ~~purpose.~~

15 (c) It shall be an affirmative defense that:

16 (1) The person had custody of the child pursuant to a
17 court order granting legal custody or visitation rights
18 which existed at the time of the alleged violation; or

19 (2) The person had physical custody of the child
20 pursuant to a court order granting legal custody or
21 visitation rights and failed to return the child as a
22 result of circumstances beyond his or her control, and the
23 person notified and disclosed to the other parent or legal
24 custodian the specific whereabouts of the child and a means
25 by which such child can be contacted or made a reasonable
26 attempt to notify the other parent or lawful custodian of

1 the child of such circumstances and make such disclosure
2 within 24 hours after the visitation period had expired and
3 returned the child as soon as possible; or

4 (3) The person was fleeing an incidence or pattern of
5 domestic violence; or

6 (4) The person lured or attempted to lure a child under
7 the age of 16 into a motor vehicle, building, housetrailer,
8 or dwelling place for a lawful purpose in prosecutions
9 under subsection (b), paragraph (10).

10 (d) A person convicted of child abduction under this
11 Section is guilty of a Class 4 felony. A person convicted of a
12 second or subsequent violation of paragraph (10) of subsection
13 (b) of this Section is guilty of a Class 3 felony. It shall be a
14 factor in aggravation for which a court may impose a more
15 severe sentence under Section 5-8-1 of the Unified Code of
16 Corrections, if upon sentencing the court finds evidence of any
17 of the following aggravating factors:

18 (1) that the defendant abused or neglected the child
19 following the concealment, detention or removal of the
20 child; or

21 (2) that the defendant inflicted or threatened to
22 inflict physical harm on a parent or lawful custodian of
23 the child or on the child with intent to cause such parent
24 or lawful custodian to discontinue criminal prosecution of
25 the defendant under this Section; or

26 (3) that the defendant demanded payment in exchange for

1 return of the child or demanded that he or she be relieved
2 of the financial or legal obligation to support the child
3 in exchange for return of the child; or

4 (4) that the defendant has previously been convicted of
5 child abduction; or

6 (5) that the defendant committed the abduction while
7 armed with a deadly weapon or the taking of the child
8 resulted in serious bodily injury to another; or

9 (6) that the defendant committed the abduction while in
10 a school, regardless of the time of day or time of year; in
11 a playground; on any conveyance owned, leased, or
12 contracted by a school to transport students to or from
13 school or a school related activity; on the real property
14 of a school; or on a public way within 1,000 feet of the
15 real property comprising any school or playground. For
16 purposes of this paragraph (6), "playground" means a piece
17 of land owned or controlled by a unit of local government
18 that is designated by the unit of local government for use
19 solely or primarily for children's recreation; and
20 "school" means a public or private elementary or secondary
21 school, community college, college, or university.

22 (e) The court may order the child to be returned to the
23 parent or lawful custodian from whom the child was concealed,
24 detained or removed. In addition to any sentence imposed, the
25 court may assess any reasonable expense incurred in searching
26 for or returning the child against any person convicted of

1 violating this Section.

2 (f) Nothing contained in this Section shall be construed to
3 limit the court's contempt power.

4 (g) Every law enforcement officer investigating an alleged
5 incident of child abduction shall make a written police report
6 of any bona fide allegation and the disposition of such
7 investigation. Every police report completed pursuant to this
8 Section shall be compiled and recorded within the meaning of
9 Section 5.1 of "An Act in relation to criminal identification
10 and investigation", approved July 2, 1931, as now or hereafter
11 amended.

12 (h) Whenever a law enforcement officer has reasons to
13 believe a child abduction has occurred, he shall provide the
14 lawful custodian a summary of her or his rights under this Act,
15 including the procedures and relief available to her or him.

16 (i) If during the course of an investigation under this
17 Section the child is found in the physical custody of the
18 defendant or another, the law enforcement officer shall return
19 the child to the parent or lawful custodian from whom the child
20 was concealed, detained or removed, unless there is good cause
21 for the law enforcement officer or the Department of Children
22 and Family Services to retain temporary protective custody of
23 the child pursuant to the Abused and Neglected Child Reporting
24 Act, as now or hereafter amended.

25 (Source: P.A. 92-434, eff. 1-1-02.)

1 (720 ILCS 5/10-5.1 new)

2 Sec. 10-5.1. Luring a minor.

3 (a) A person commits luring a minor when he or she is 18
4 years of age or older and is a stranger to a person under 15
5 years of age and knowingly contacts or communicates
6 electronically to the person who is under 15 years of age, for
7 the purpose of persuading and luring or transporting or
8 attempting to persuade and lure, or transport, that person
9 under 15 years of age away from the person's home, or from any
10 location known by the person's parent, legal guardian, or
11 custodian, to be the place where the person under 15 years of
12 age is located, for any purpose without the express consent of
13 the person's parent or legal guardian, and with the intent to
14 avoid the consent of the person's parent or legal guardian.

15 (b) Definitions. For purposes of this Section:

16 (1) "Emergency situation" means a situation in which
17 the person under 15 years of age is threatened with
18 imminent bodily harm, emotional harm, or psychological
19 harm.

20 (2) "Express consent" means oral or written permission
21 that is positive, direct, and unequivocal, requiring no
22 inference or implication to supply its meaning.

23 (3) "Contact or communicates electronically" includes,
24 but is not be limited to, any attempt to make contact or
25 communicate telephonically, electronically, through the
26 Internet or text messages.

1 (4) "Stranger" means any person of a casual
2 acquaintance with whom no relationship has been
3 established or promoted.

4 (b) This Section may not be interpreted to criminalize an
5 act or person contacting a person under 15 years of age within
6 the scope and course of his or her employment, or status as a
7 volunteer of a recognized civic or charitable organization.

8 (c) This Section is intended to protect minors and to help
9 parents and legal guardians exercise reasonable care,
10 supervision, protection, and control over minor children.

11 (d) Defenses. It is not a defense to a prosecution under
12 this Section if the person who is contacted is posing as a
13 child and who is in actuality an adult law enforcement officer
14 posing as a child.

15 (e) Luring a minor is a Class 4 felony. A person convicted
16 of luring a minor shall undergo a sex offender evaluation prior
17 to a sentence being imposed. A second or subsequent offense is
18 a Class 3 felony, for which the person shall serve a mandatory
19 minimum term of imprisonment of 90 days in the county jail or
20 county Department of Corrections. A defendant is not eligible
21 for day-to-day good time credit for this offense. A defendant
22 convicted a second time of this offense shall register as a
23 sexual predator under the Sex Offender Registration Act. A
24 third or subsequent violation is a Class 1 felony.

25 (f) Jurisdiction shall be established if the transmission
26 that constitutes the offense either originates in this State or

1 is received in this State and does not apply to emergency
2 situations.

3 Section 10. The Unified Code of Corrections is amended by
4 changing Section 3-6-3 as follows:

5 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

6 Sec. 3-6-3. Rules and Regulations for Early Release.

7 (a) (1) The Department of Corrections shall prescribe
8 rules and regulations for the early release on account of
9 good conduct of persons committed to the Department which
10 shall be subject to review by the Prisoner Review Board.

11 (2) The rules and regulations on early release shall
12 provide, with respect to offenses listed in clause (i),
13 (ii), or (iii) of this paragraph (2) committed on or after
14 June 19, 1998 or with respect to the offense listed in
15 clause (iv) of this paragraph (2) committed on or after
16 June 23, 2005 (the effective date of Public Act 94-71) or
17 with respect to offense listed in clause (v) committed on
18 or after the effective date of this amendatory Act of the
19 95th General Assembly or with respect to the offense of
20 being an armed habitual criminal committed on or after
21 August 2, 2005 (the effective date of Public Act 94-398),
22 the following:

23 (i) that a prisoner who is serving a term of
24 imprisonment for first degree murder or for the offense

1 of terrorism shall receive no good conduct credit and
2 shall serve the entire sentence imposed by the court;

3 (ii) that a prisoner serving a sentence for attempt
4 to commit first degree murder, solicitation of murder,
5 solicitation of murder for hire, intentional homicide
6 of an unborn child, predatory criminal sexual assault
7 of a child, aggravated criminal sexual assault,
8 criminal sexual assault, aggravated kidnapping,
9 aggravated battery with a firearm, heinous battery,
10 being an armed habitual criminal, aggravated battery
11 of a senior citizen, or aggravated battery of a child
12 shall receive no more than 4.5 days of good conduct
13 credit for each month of his or her sentence of
14 imprisonment;

15 (iii) that a prisoner serving a sentence for home
16 invasion, armed robbery, aggravated vehicular
17 hijacking, aggravated discharge of a firearm, or armed
18 violence with a category I weapon or category II
19 weapon, when the court has made and entered a finding,
20 pursuant to subsection (c-1) of Section 5-4-1 of this
21 Code, that the conduct leading to conviction for the
22 enumerated offense resulted in great bodily harm to a
23 victim, shall receive no more than 4.5 days of good
24 conduct credit for each month of his or her sentence of
25 imprisonment; ~~and~~

26 (iv) that a prisoner serving a sentence for

1 aggravated discharge of a firearm, whether or not the
2 conduct leading to conviction for the offense resulted
3 in great bodily harm to the victim, shall receive no
4 more than 4.5 days of good conduct credit for each
5 month of his or her sentence of imprisonment; ~~and-~~

6 (v) that a prisoner serving a sentence for a second
7 or subsequent offense of luring a minor shall receive
8 no more than 4.5 days of good conduct credit for each
9 month of his or her sentence of imprisonment.

10 (2.1) For all offenses, other than those enumerated in
11 subdivision (a)(2)(i), (ii), or (iii) committed on or after
12 June 19, 1998 or subdivision (a)(2)(iv) committed on or
13 after June 23, 2005 (the effective date of Public Act
14 94-71) or subdivision (a)(2)(v) committed on or after the
15 effective date of this amendatory Act of the 95th General
16 Assembly, and other than the offense of reckless homicide
17 as defined in subsection (e) of Section 9-3 of the Criminal
18 Code of 1961 committed on or after January 1, 1999, or
19 aggravated driving under the influence of alcohol, other
20 drug or drugs, or intoxicating compound or compounds, or
21 any combination thereof as defined in subparagraph (F) of
22 paragraph (1) of subsection (d) of Section 11-501 of the
23 Illinois Vehicle Code, the rules and regulations shall
24 provide that a prisoner who is serving a term of
25 imprisonment shall receive one day of good conduct credit
26 for each day of his or her sentence of imprisonment or

1 recommitment under Section 3-3-9. Each day of good conduct
2 credit shall reduce by one day the prisoner's period of
3 imprisonment or recommitment under Section 3-3-9.

4 (2.2) A prisoner serving a term of natural life
5 imprisonment or a prisoner who has been sentenced to death
6 shall receive no good conduct credit.

7 (2.3) The rules and regulations on early release shall
8 provide that a prisoner who is serving a sentence for
9 reckless homicide as defined in subsection (e) of Section
10 9-3 of the Criminal Code of 1961 committed on or after
11 January 1, 1999, or aggravated driving under the influence
12 of alcohol, other drug or drugs, or intoxicating compound
13 or compounds, or any combination thereof as defined in
14 subparagraph (F) of paragraph (1) of subsection (d) of
15 Section 11-501 of the Illinois Vehicle Code, shall receive
16 no more than 4.5 days of good conduct credit for each month
17 of his or her sentence of imprisonment.

18 (2.4) The rules and regulations on early release shall
19 provide with respect to the offenses of aggravated battery
20 with a machine gun or a firearm equipped with any device or
21 attachment designed or used for silencing the report of a
22 firearm or aggravated discharge of a machine gun or a
23 firearm equipped with any device or attachment designed or
24 used for silencing the report of a firearm, committed on or
25 after July 15, 1999 (the effective date of Public Act
26 91-121), that a prisoner serving a sentence for any of

1 these offenses shall receive no more than 4.5 days of good
2 conduct credit for each month of his or her sentence of
3 imprisonment.

4 (2.5) The rules and regulations on early release shall
5 provide that a prisoner who is serving a sentence for
6 aggravated arson committed on or after July 27, 2001 (the
7 effective date of Public Act 92-176) shall receive no more
8 than 4.5 days of good conduct credit for each month of his
9 or her sentence of imprisonment.

10 (3) The rules and regulations shall also provide that
11 the Director may award up to 180 days additional good
12 conduct credit for meritorious service in specific
13 instances as the Director deems proper; except that no more
14 than 90 days of good conduct credit for meritorious service
15 shall be awarded to any prisoner who is serving a sentence
16 for conviction of first degree murder, reckless homicide
17 while under the influence of alcohol or any other drug, or
18 aggravated driving under the influence of alcohol, other
19 drug or drugs, or intoxicating compound or compounds, or
20 any combination thereof as defined in subparagraph (F) of
21 paragraph (1) of subsection (d) of Section 11-501 of the
22 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
23 predatory criminal sexual assault of a child, aggravated
24 criminal sexual assault, criminal sexual assault, deviate
25 sexual assault, aggravated criminal sexual abuse,
26 aggravated indecent liberties with a child, indecent

1 liberties with a child, child pornography, heinous
2 battery, aggravated battery of a spouse, aggravated
3 battery of a spouse with a firearm, stalking, aggravated
4 stalking, aggravated battery of a child, endangering the
5 life or health of a child, cruelty to a child, or narcotic
6 racketeering. Notwithstanding the foregoing, good conduct
7 credit for meritorious service shall not be awarded on a
8 sentence of imprisonment imposed for conviction of: (i) one
9 of the offenses enumerated in subdivision (a)(2)(i), (ii),
10 or (iii) when the offense is committed on or after June 19,
11 1998 or subdivision (a)(2)(iv) when the offense is
12 committed on or after June 23, 2005 (the effective date of
13 Public Act 94-71) or subdivision (a)(2)(v) when the offense
14 is committed on or after the effective date of this
15 amendatory Act of the 95th General Assembly, (ii) reckless
16 homicide as defined in subsection (e) of Section 9-3 of the
17 Criminal Code of 1961 when the offense is committed on or
18 after January 1, 1999, or aggravated driving under the
19 influence of alcohol, other drug or drugs, or intoxicating
20 compound or compounds, or any combination thereof as
21 defined in subparagraph (F) of paragraph (1) of subsection
22 (d) of Section 11-501 of the Illinois Vehicle Code, (iii)
23 one of the offenses enumerated in subdivision (a)(2.4) when
24 the offense is committed on or after July 15, 1999 (the
25 effective date of Public Act 91-121), or (iv) aggravated
26 arson when the offense is committed on or after July 27,

1 2001 (the effective date of Public Act 92-176).

2 (4) The rules and regulations shall also provide that
3 the good conduct credit accumulated and retained under
4 paragraph (2.1) of subsection (a) of this Section by any
5 inmate during specific periods of time in which such inmate
6 is engaged full-time in substance abuse programs,
7 correctional industry assignments, or educational programs
8 provided by the Department under this paragraph (4) and
9 satisfactorily completes the assigned program as
10 determined by the standards of the Department, shall be
11 multiplied by a factor of 1.25 for program participation
12 before August 11, 1993 and 1.50 for program participation
13 on or after that date. However, no inmate shall be eligible
14 for the additional good conduct credit under this paragraph
15 (4) or (4.1) of this subsection (a) while assigned to a
16 boot camp or electronic detention, or if convicted of an
17 offense enumerated in subdivision (a)(2)(i), (ii), or
18 (iii) of this Section that is committed on or after June
19 19, 1998 or subdivision (a)(2)(iv) of this Section that is
20 committed on or after June 23, 2005 (the effective date of
21 Public Act 94-71) or subdivision (a)(2)(v) of this Section
22 that is committed on or after the effective date of this
23 amendatory Act of the 95th General Assembly, or if
24 convicted of reckless homicide as defined in subsection (e)
25 of Section 9-3 of the Criminal Code of 1961 if the offense
26 is committed on or after January 1, 1999, or aggravated

1 driving under the influence of alcohol, other drug or
2 drugs, or intoxicating compound or compounds, or any
3 combination thereof as defined in subparagraph (F) of
4 paragraph (1) of subsection (d) of Section 11-501 of the
5 Illinois Vehicle Code, or if convicted of an offense
6 enumerated in paragraph (a)(2.4) of this Section that is
7 committed on or after July 15, 1999 (the effective date of
8 Public Act 91-121), or first degree murder, a Class X
9 felony, criminal sexual assault, felony criminal sexual
10 abuse, aggravated criminal sexual abuse, aggravated
11 battery with a firearm, or any predecessor or successor
12 offenses with the same or substantially the same elements,
13 or any inchoate offenses relating to the foregoing
14 offenses. No inmate shall be eligible for the additional
15 good conduct credit under this paragraph (4) who (i) has
16 previously received increased good conduct credit under
17 this paragraph (4) and has subsequently been convicted of a
18 felony, or (ii) has previously served more than one prior
19 sentence of imprisonment for a felony in an adult
20 correctional facility.

21 Educational, vocational, substance abuse and
22 correctional industry programs under which good conduct
23 credit may be increased under this paragraph (4) and
24 paragraph (4.1) of this subsection (a) shall be evaluated
25 by the Department on the basis of documented standards. The
26 Department shall report the results of these evaluations to

1 the Governor and the General Assembly by September 30th of
2 each year. The reports shall include data relating to the
3 recidivism rate among program participants.

4 Availability of these programs shall be subject to the
5 limits of fiscal resources appropriated by the General
6 Assembly for these purposes. Eligible inmates who are
7 denied immediate admission shall be placed on a waiting
8 list under criteria established by the Department. The
9 inability of any inmate to become engaged in any such
10 programs by reason of insufficient program resources or for
11 any other reason established under the rules and
12 regulations of the Department shall not be deemed a cause
13 of action under which the Department or any employee or
14 agent of the Department shall be liable for damages to the
15 inmate.

16 (4.1) The rules and regulations shall also provide that
17 an additional 60 days of good conduct credit shall be
18 awarded to any prisoner who passes the high school level
19 Test of General Educational Development (GED) while the
20 prisoner is incarcerated. The good conduct credit awarded
21 under this paragraph (4.1) shall be in addition to, and
22 shall not affect, the award of good conduct under any other
23 paragraph of this Section, but shall also be pursuant to
24 the guidelines and restrictions set forth in paragraph (4)
25 of subsection (a) of this Section. The good conduct credit
26 provided for in this paragraph shall be available only to

1 those prisoners who have not previously earned a high
2 school diploma or a GED. If, after an award of the GED good
3 conduct credit has been made and the Department determines
4 that the prisoner was not eligible, then the award shall be
5 revoked.

6 (4.5) The rules and regulations on early release shall
7 also provide that when the court's sentencing order
8 recommends a prisoner for substance abuse treatment and the
9 crime was committed on or after September 1, 2003 (the
10 effective date of Public Act 93-354), the prisoner shall
11 receive no good conduct credit awarded under clause (3) of
12 this subsection (a) unless he or she participates in and
13 completes a substance abuse treatment program. The
14 Director may waive the requirement to participate in or
15 complete a substance abuse treatment program and award the
16 good conduct credit in specific instances if the prisoner
17 is not a good candidate for a substance abuse treatment
18 program for medical, programming, or operational reasons.
19 Availability of substance abuse treatment shall be subject
20 to the limits of fiscal resources appropriated by the
21 General Assembly for these purposes. If treatment is not
22 available and the requirement to participate and complete
23 the treatment has not been waived by the Director, the
24 prisoner shall be placed on a waiting list under criteria
25 established by the Department. The Director may allow a
26 prisoner placed on a waiting list to participate in and

1 complete a substance abuse education class or attend
2 substance abuse self-help meetings in lieu of a substance
3 abuse treatment program. A prisoner on a waiting list who
4 is not placed in a substance abuse program prior to release
5 may be eligible for a waiver and receive good conduct
6 credit under clause (3) of this subsection (a) at the
7 discretion of the Director.

8 (5) Whenever the Department is to release any inmate
9 earlier than it otherwise would because of a grant of good
10 conduct credit for meritorious service given at any time
11 during the term, the Department shall give reasonable
12 advance notice of the impending release to the State's
13 Attorney of the county where the prosecution of the inmate
14 took place.

15 (b) Whenever a person is or has been committed under
16 several convictions, with separate sentences, the sentences
17 shall be construed under Section 5-8-4 in granting and
18 forfeiting of good time.

19 (c) The Department shall prescribe rules and regulations
20 for revoking good conduct credit, or suspending or reducing the
21 rate of accumulation of good conduct credit for specific rule
22 violations, during imprisonment. These rules and regulations
23 shall provide that no inmate may be penalized more than one
24 year of good conduct credit for any one infraction.

25 When the Department seeks to revoke, suspend or reduce the
26 rate of accumulation of any good conduct credits for an alleged

1 infraction of its rules, it shall bring charges therefor
2 against the prisoner sought to be so deprived of good conduct
3 credits before the Prisoner Review Board as provided in
4 subparagraph (a)(4) of Section 3-3-2 of this Code, if the
5 amount of credit at issue exceeds 30 days or when during any 12
6 month period, the cumulative amount of credit revoked exceeds
7 30 days except where the infraction is committed or discovered
8 within 60 days of scheduled release. In those cases, the
9 Department of Corrections may revoke up to 30 days of good
10 conduct credit. The Board may subsequently approve the
11 revocation of additional good conduct credit, if the Department
12 seeks to revoke good conduct credit in excess of 30 days.
13 However, the Board shall not be empowered to review the
14 Department's decision with respect to the loss of 30 days of
15 good conduct credit within any calendar year for any prisoner
16 or to increase any penalty beyond the length requested by the
17 Department.

18 The Director of the Department of Corrections, in
19 appropriate cases, may restore up to 30 days good conduct
20 credits which have been revoked, suspended or reduced. Any
21 restoration of good conduct credits in excess of 30 days shall
22 be subject to review by the Prisoner Review Board. However, the
23 Board may not restore good conduct credit in excess of the
24 amount requested by the Director.

25 Nothing contained in this Section shall prohibit the
26 Prisoner Review Board from ordering, pursuant to Section

1 3-3-9(a) (3) (i) (B), that a prisoner serve up to one year of the
2 sentence imposed by the court that was not served due to the
3 accumulation of good conduct credit.

4 (d) If a lawsuit is filed by a prisoner in an Illinois or
5 federal court against the State, the Department of Corrections,
6 or the Prisoner Review Board, or against any of their officers
7 or employees, and the court makes a specific finding that a
8 pleading, motion, or other paper filed by the prisoner is
9 frivolous, the Department of Corrections shall conduct a
10 hearing to revoke up to 180 days of good conduct credit by
11 bringing charges against the prisoner sought to be deprived of
12 the good conduct credits before the Prisoner Review Board as
13 provided in subparagraph (a) (8) of Section 3-3-2 of this Code.
14 If the prisoner has not accumulated 180 days of good conduct
15 credit at the time of the finding, then the Prisoner Review
16 Board may revoke all good conduct credit accumulated by the
17 prisoner.

18 For purposes of this subsection (d):

19 (1) "Frivolous" means that a pleading, motion, or other
20 filing which purports to be a legal document filed by a
21 prisoner in his or her lawsuit meets any or all of the
22 following criteria:

23 (A) it lacks an arguable basis either in law or in
24 fact;

25 (B) it is being presented for any improper purpose,
26 such as to harass or to cause unnecessary delay or

1 needless increase in the cost of litigation;

2 (C) the claims, defenses, and other legal
3 contentions therein are not warranted by existing law
4 or by a nonfrivolous argument for the extension,
5 modification, or reversal of existing law or the
6 establishment of new law;

7 (D) the allegations and other factual contentions
8 do not have evidentiary support or, if specifically so
9 identified, are not likely to have evidentiary support
10 after a reasonable opportunity for further
11 investigation or discovery; or

12 (E) the denials of factual contentions are not
13 warranted on the evidence, or if specifically so
14 identified, are not reasonably based on a lack of
15 information or belief.

16 (2) "Lawsuit" means a petition for post-conviction
17 relief under Article 122 of the Code of Criminal Procedure
18 of 1963, a motion pursuant to Section 116-3 of the Code of
19 Criminal Procedure of 1963, a habeas corpus action under
20 Article X of the Code of Civil Procedure or under federal
21 law (28 U.S.C. 2254), a petition for claim under the Court
22 of Claims Act or an action under the federal Civil Rights
23 Act (42 U.S.C. 1983).

24 (e) Nothing in Public Act 90-592 or 90-593 affects the
25 validity of Public Act 89-404.

26 (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,

1 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,
2 eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06.)

3 Section 15. The Sex Offender Registration Act is amended by
4 changing Section 2 as follows:

5 (730 ILCS 150/2) (from Ch. 38, par. 222)

6 Sec. 2. Definitions.

7 (A) As used in this Article, "sex offender" means any
8 person who is:

9 (1) charged pursuant to Illinois law, or any
10 substantially similar federal, Uniform Code of Military
11 Justice, sister state, or foreign country law, with a sex
12 offense set forth in subsection (B) of this Section or the
13 attempt to commit an included sex offense, and:

14 (a) is convicted of such offense or an attempt to
15 commit such offense; or

16 (b) is found not guilty by reason of insanity of
17 such offense or an attempt to commit such offense; or

18 (c) is found not guilty by reason of insanity
19 pursuant to Section 104-25(c) of the Code of Criminal
20 Procedure of 1963 of such offense or an attempt to
21 commit such offense; or

22 (d) is the subject of a finding not resulting in an
23 acquittal at a hearing conducted pursuant to Section
24 104-25(a) of the Code of Criminal Procedure of 1963 for

1 the alleged commission or attempted commission of such
2 offense; or

3 (e) is found not guilty by reason of insanity
4 following a hearing conducted pursuant to a federal,
5 Uniform Code of Military Justice, sister state, or
6 foreign country law substantially similar to Section
7 104-25(c) of the Code of Criminal Procedure of 1963 of
8 such offense or of the attempted commission of such
9 offense; or

10 (f) is the subject of a finding not resulting in an
11 acquittal at a hearing conducted pursuant to a federal,
12 Uniform Code of Military Justice, sister state, or
13 foreign country law substantially similar to Section
14 104-25(a) of the Code of Criminal Procedure of 1963 for
15 the alleged violation or attempted commission of such
16 offense; or

17 (2) certified as a sexually dangerous person pursuant
18 to the Illinois Sexually Dangerous Persons Act, or any
19 substantially similar federal, Uniform Code of Military
20 Justice, sister state, or foreign country law; or

21 (3) subject to the provisions of Section 2 of the
22 Interstate Agreements on Sexually Dangerous Persons Act;
23 or

24 (4) found to be a sexually violent person pursuant to
25 the Sexually Violent Persons Commitment Act or any
26 substantially similar federal, Uniform Code of Military

1 Justice, sister state, or foreign country law; or

2 (5) adjudicated a juvenile delinquent as the result of
3 committing or attempting to commit an act which, if
4 committed by an adult, would constitute any of the offenses
5 specified in item (B), (C), or (C-5) of this Section or a
6 violation of any substantially similar federal, Uniform
7 Code of Military Justice, sister state, or foreign country
8 law, or found guilty under Article V of the Juvenile Court
9 Act of 1987 of committing or attempting to commit an act
10 which, if committed by an adult, would constitute any of
11 the offenses specified in item (B), (C), or (C-5) of this
12 Section or a violation of any substantially similar
13 federal, Uniform Code of Military Justice, sister state, or
14 foreign country law.

15 Convictions that result from or are connected with the same
16 act, or result from offenses committed at the same time, shall
17 be counted for the purpose of this Article as one conviction.
18 Any conviction set aside pursuant to law is not a conviction
19 for purposes of this Article.

20 For purposes of this Section, "convicted" shall have the
21 same meaning as "adjudicated". For the purposes of this
22 Article, a person who is defined as a sex offender as a result
23 of being adjudicated a juvenile delinquent under paragraph (5)
24 of this subsection (A) upon attaining 17 years of age shall be
25 considered as having committed the sex offense on or after the
26 sex offender's 17th birthday. Registration of juveniles upon

1 attaining 17 years of age shall not extend the original
2 registration of 10 years from the date of conviction.

3 (B) As used in this Article, "sex offense" means:

4 (1) A violation of any of the following Sections of the
5 Criminal Code of 1961:

6 11-20.1 (child pornography),

7 11-6 (indecent solicitation of a child),

8 11-9.1 (sexual exploitation of a child),

9 11-9.2 (custodial sexual misconduct),

10 11-9.5 (sexual misconduct with a person with a
11 disability),

12 11-15.1 (soliciting for a juvenile prostitute),

13 11-18.1 (patronizing a juvenile prostitute),

14 11-17.1 (keeping a place of juvenile
15 prostitution),

16 11-19.1 (juvenile pimping),

17 11-19.2 (exploitation of a child),

18 12-13 (criminal sexual assault),

19 12-14 (aggravated criminal sexual assault),

20 12-14.1 (predatory criminal sexual assault of a
21 child),

22 12-15 (criminal sexual abuse),

23 12-16 (aggravated criminal sexual abuse),

24 12-33 (ritualized abuse of a child).

25 An attempt to commit any of these offenses.

26 (1.5) A violation of any of the following Sections of

1 the Criminal Code of 1961, when the victim is a person
2 under 18 years of age, the defendant is not a parent of the
3 victim, the offense was sexually motivated as defined in
4 Section 10 of the Sex Offender Management Board Act, and
5 the offense was committed on or after January 1, 1996:

6 10-1 (kidnapping),

7 10-2 (aggravated kidnapping),

8 10-3 (unlawful restraint),

9 10-3.1 (aggravated unlawful restraint).

10 (1.6) First degree murder under Section 9-1 of the
11 Criminal Code of 1961, when the victim was a person under
12 18 years of age and the defendant was at least 17 years of
13 age at the time of the commission of the offense, provided
14 the offense was sexually motivated as defined in Section 10
15 of the Sex Offender Management Board Act.

16 (1.7) (Blank).

17 (1.8) A violation or attempted violation of Section
18 11-11 (sexual relations within families) of the Criminal
19 Code of 1961, and the offense was committed on or after
20 June 1, 1997.

21 (1.9) Child abduction under paragraph (10) of
22 subsection (b) of Section 10-5 of the Criminal Code of 1961
23 committed by luring or attempting to lure a child under the
24 age of 16 into a motor vehicle, building, house trailer, or
25 dwelling place without the consent of the parent or lawful
26 custodian of the child for other than a lawful purpose and

1 the offense was committed on or after January 1, 1998,
2 provided the offense was sexually motivated as defined in
3 Section 10 of the Sex Offender Management Board Act.

4 (1.10) A violation or attempted violation of any of the
5 following Sections of the Criminal Code of 1961 when the
6 offense was committed on or after July 1, 1999:

7 10-4 (forcible detention, if the victim is under 18
8 years of age), provided the offense was sexually
9 motivated as defined in Section 10 of the Sex Offender
10 Management Board Act,

11 11-6.5 (indecent solicitation of an adult),

12 11-15 (soliciting for a prostitute, if the victim
13 is under 18 years of age),

14 11-16 (pandering, if the victim is under 18 years
15 of age),

16 11-18 (patronizing a prostitute, if the victim is
17 under 18 years of age),

18 11-19 (pimping, if the victim is under 18 years of
19 age).

20 (1.11) A violation or attempted violation of any of the
21 following Sections of the Criminal Code of 1961 when the
22 offense was committed on or after August 22, 2002:

23 11-9 (public indecency for a third or subsequent
24 conviction).

25 (1.12) A violation or attempted violation of Section
26 5.1 of the Wrongs to Children Act (permitting sexual abuse)

1 when the offense was committed on or after August 22, 2002.

2 (2) A violation of any former law of this State
3 substantially equivalent to any offense listed in
4 subsection (B) of this Section.

5 (C) A conviction for an offense of federal law, Uniform
6 Code of Military Justice, or the law of another state or a
7 foreign country that is substantially equivalent to any offense
8 listed in subsections (B), (C), and (E) of this Section shall
9 constitute a conviction for the purpose of this Article. A
10 finding or adjudication as a sexually dangerous person or a
11 sexually violent person under any federal law, Uniform Code of
12 Military Justice, or the law of another state or foreign
13 country that is substantially equivalent to the Sexually
14 Dangerous Persons Act or the Sexually Violent Persons
15 Commitment Act shall constitute an adjudication for the
16 purposes of this Article.

17 (C-5) A person at least 17 years of age at the time of the
18 commission of the offense who is convicted of first degree
19 murder under Section 9-1 of the Criminal Code of 1961, against
20 a person under 18 years of age, shall be required to register
21 for natural life. A conviction for an offense of federal,
22 Uniform Code of Military Justice, sister state, or foreign
23 country law that is substantially equivalent to any offense
24 listed in subsection (C-5) of this Section shall constitute a
25 conviction for the purpose of this Article. This subsection
26 (C-5) applies to a person who committed the offense before June

1 1, 1996 only if the person is incarcerated in an Illinois
2 Department of Corrections facility on August 20, 2004 (the
3 effective date of Public Act 93-977).

4 (D) As used in this Article, "law enforcement agency having
5 jurisdiction" means the Chief of Police in each of the
6 municipalities in which the sex offender expects to reside,
7 work, or attend school (1) upon his or her discharge, parole or
8 release or (2) during the service of his or her sentence of
9 probation or conditional discharge, or the Sheriff of the
10 county, in the event no Police Chief exists or if the offender
11 intends to reside, work, or attend school in an unincorporated
12 area. "Law enforcement agency having jurisdiction" includes
13 the location where out-of-state students attend school and
14 where out-of-state employees are employed or are otherwise
15 required to register.

16 (D-1) As used in this Article, "supervising officer" means
17 the assigned Illinois Department of Corrections parole agent or
18 county probation officer.

19 (E) As used in this Article, "sexual predator" means any
20 person who, after July 1, 1999, is:

21 (1) Convicted for an offense of federal, Uniform Code
22 of Military Justice, sister state, or foreign country law
23 that is substantially equivalent to any offense listed in
24 subsection (E) of this Section shall constitute a
25 conviction for the purpose of this Article. Convicted of a
26 violation or attempted violation of any of the following

1 Sections of the Criminal Code of 1961, if the conviction
2 occurred after July 1, 1999:

3

4 11-17.1 (keeping a place of juvenile
5 prostitution),

6 11-19.1 (juvenile pimping),

7 11-19.2 (exploitation of a child),

8 11-20.1 (child pornography),

9 12-13 (criminal sexual assault),

10 12-14 (aggravated criminal sexual assault),

11 12-14.1 (predatory criminal sexual assault of a
12 child),

13 12-16 (aggravated criminal sexual abuse),

14 12-33 (ritualized abuse of a child); or

15 (2) (blank); or

16 (3) certified as a sexually dangerous person pursuant
17 to the Sexually Dangerous Persons Act or any substantially
18 similar federal, Uniform Code of Military Justice, sister
19 state, or foreign country law; or

20 (4) found to be a sexually violent person pursuant to
21 the Sexually Violent Persons Commitment Act or any
22 substantially similar federal, Uniform Code of Military
23 Justice, sister state, or foreign country law; ~~or~~

24 (5) convicted of a second or subsequent offense which
25 requires registration pursuant to this Act. The conviction
26 for the second or subsequent offense must have occurred

1 after July 1, 1999. For purposes of this paragraph (5),
2 "convicted" shall include a conviction under any
3 substantially similar Illinois, federal, Uniform Code of
4 Military Justice, sister state, or foreign country law; or
5 or -

6 (6) convicted of a second or subsequent offense of
7 luring a minor under Section 10-5.1 of the Criminal Code of
8 1961.

9 (F) As used in this Article, "out-of-state student" means
10 any sex offender, as defined in this Section, or sexual
11 predator who is enrolled in Illinois, on a full-time or
12 part-time basis, in any public or private educational
13 institution, including, but not limited to, any secondary
14 school, trade or professional institution, or institution of
15 higher learning.

16 (G) As used in this Article, "out-of-state employee" means
17 any sex offender, as defined in this Section, or sexual
18 predator who works in Illinois, regardless of whether the
19 individual receives payment for services performed, for a
20 period of time of 10 or more days or for an aggregate period of
21 time of 30 or more days during any calendar year. Persons who
22 operate motor vehicles in the State accrue one day of
23 employment time for any portion of a day spent in Illinois.

24 (H) As used in this Article, "school" means any public or
25 private educational institution, including, but not limited
26 to, any elementary or secondary school, trade or professional

1 institution, or institution of higher education.

2 (I) As used in this Article, "fixed residence" means any
3 and all places that a sex offender resides for an aggregate
4 period of time of 5 or more days in a calendar year.

5 (Source: P.A. 93-977, eff. 8-20-04; 93-979, eff. 8-20-04;
6 94-166, eff. 1-1-06; 94-168, eff. 1-1-06; 94-945, eff. 6-27-06;
7 94-1053, eff. 7-24-06; revised 8-3-06.)

1 INDEX

2 Statutes amended in order of appearance

3 720 ILCS 5/10-5 from Ch. 38, par. 10-5

4 720 ILCS 5/10-5.1 new

5 730 ILCS 5/3-6-3 from Ch. 38, par. 1003-6-3

6 730 ILCS 150/2 from Ch. 38, par. 222